

REMARKS

Claims 1-12 are currently pending in the application. By this Amendment, claims 1, 4 and 12 are amended. In the Office Action, claims 1-12 were rejected. Claim 12 is objected to as being in improper form. Claims 1-9 are rejected under 35 USC § 112 (second paragraph) for failing to point out and distinctly claim the inventive subject matter. Claims 1-2 and 10 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,252,068 to Gryder (hereafter “Gryder”). Claims 4-5 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gryder in view of U.S. Patent No. 5,782,639 to Beal (hereafter “Beal”). Reconsideration of the rejected claims is respectfully requested in view of the above amendments and following remarks.

Objections due to form

Claim 12 is objected to as being a multiple dependent claim depending from multiple dependent claim 4. Claim 4 has been amended to eliminate the multiple dependency. Thus, withdrawal of the objection to claim 12 is respectfully requested.

Rejections under 35 USC § 112

Claims 1-9 are rejected for failing to point out and distinctly claim the inventive subject matter. Specifically, the phrase “or the like” in claim 1 was deemed to cover elements not actually disclosed. Claims 2-9 are rejected because of their dependency on claim 1. Claims 1 has been amended to remove the phrase “or the like.” Thus, Applicant respectfully requests withdrawal of the rejection of claim 1-9 under 35 USC § 112, second paragraph. Applicant notes that claims 3 and 6-9 were not rejected based on prior art, and, thus, these claims should be deemed to contain allowable subject matter.

Gryder does not anticipate the claims

The Office Action rejects claims 1, 2 and 10 as being anticipated by Gryder. Gryder discloses a flight simulator in which the weight-shift movements of a suspended pilot are transformed into electrical signals representative of the movements. The signals may be used as the pitch and roll input information in an interactive computerized flight simulation system.

To establish a *prima facie* case of anticipation under 35 U.S.C. § 102(b), the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. MPEP 2131. Applicant respectfully submits that this criterion has not been met for Gryder as applied to claims 1, 2 and 10 of the present invention.

For example, claim 1 of the present invention recites, in part, a computer game controller comprising a bearing “including selectively operable locking means for preventing either rotational movement or side to side and forwards and backwards movement” and the controller “further including selectively operable locking means for increasing the resistance to movement of the support means relative to the bearing, thereby providing physiotherapy exercise for the player.” Gryder fails to disclose the “selectively operable locking means” recited in claim 1. In fact, the tension cables disclosed in Gryder are locked into slots in the legs of the structure and provide no indication of being selectively operable (see Gryder, col. 5, lines 7-9). Furthermore, Gryder fails to suggest the selectively operable arrangement of claim 1. Because the tension cables of Gryder are used to enhance stability of the entire structure, there would be no expectation that that cables would be selectively operable. Also, since Gryder is directed to a flight simulator for a hang glider from which a pilot dangles free to move and turn without restriction, it would be *counter-intuitive* to the teaching of Gryder to select a particular type of movement, as indeed it would ruin the simulation since a micro-light pilot would realistically be free to move and turn in all directions. Preventing a movement which would be permitted when flying a real hang glider would be contrary to the provision of a good simulation.

Gryder also fails to disclose the “resistance means for increasing the resistance to movement of the support means relative to the bearing” of claim 1. The Office Action relies on column 6, lines 12-25 of Gryder to supply this element. However, the references to resistance in this passage of Gryder, is a reference to *electrical* resistance of a potentiometer rather than resistance to *movement* of the support means *relative to the bearing*, as claimed. Thus, Gryder fails to teach the claimed resistance mean of claim 1.

For at least these reasons, Gryder fails to teach or suggest all the elements of claim 1. Thus, Applicant respectfully submits that a *prima facie* case of anticipation has not been made and that the claim is now in condition for allowance. Claims 2 depends from claim 1 and

incorporates all the limitations of claim 1. Applicant submits dependent claim 2 is allowable for at least the reasons cited above with respect to claim 1.

Claim 10 recites, in part, a game controller “including resistance means for increasing the resistance to movement of the support means relative to the bearing.” As noted above with respect to claim 1, Gryder fails to teach the element of resistance means for increasing the resistance to movement of the support means relative to the bearing. For at least this reason, Gryder fails to teach or suggest all the elements of claim 10. Thus, Applicant respectfully submits that a *prima facie* case of anticipation has not been made and that the claim is now in condition for allowance.

Gryder in view of Beal does not render the claims obvious

Claims 4-5 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gryder in view of Beal. As described in the Abstract, Beal discloses a manually operated motion device for user interactive motion of a motion surface. The motion device includes a motion surface with a support points in a substantially triangular arrangement and that are used to support the motion platform in a substantially parallel relationship to the floor by a pair of support members attached to universal hinges on the motion surface and a compression member which connects to a universal hinge on the motion surface and may move in a substantially vertical plane that bisects the triangular arrangement of the support points on the motion surface. Attached to the supports is at least one mechanism for manually moving at least one of the support members, so that motion of one support member allows motion of the motion surface.

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some reason to modify the reference or to combine the reference teachings. Second, there must be some expectation of success. Third, the prior art references must disclose or suggest all of the claimed features. See MPEP 2143 and the May 3, 2007 letter from the PTO Deputy Commissioner for Patent Operations regarding *KSR Int'l Co. v. Teleflex, Inc.* Applicant respectfully submits that these criteria have not been met for Gryder in view of Beal as applied to claims 4, 5 and 11 of the present invention.

Claims 4 and 5 each depend directly from claim 1 and incorporate all the limitations of the base claim. As noted above with respect to claim 1, Gryder fails to teach or suggest at least

the claimed selectively operable locking means and resistance means. Beal fails to supply this deficiency because neither the locking mechanism nor resistance mechanisms of Beal are adaptable to a frame having a bearing means that allows rotational, side to side or back and forth movement, as claimed in claim 1. The structures of Gryder and Beal completely dissimilar, and Applicants submit that one of skill in the art would recognize the disclosures of Gryder and Beal to be inherently incompatible. Thus, Applicant submits that a *prima facie* case of obviousness is lacking for claims 4 and 5 for at least this reason.

Claim 11 depends from claim 10 and incorporates all the limitations of the base claim. As noted above with respect to claim 10, Gryder fails to teach or suggest at least the claimed resistance means. Beal fails to supply this deficiency because no resistance mechanism of Beal is adaptable to a frame having a bearing means that allows rotational, side to side or back and forth movement, as claimed in claim 10. Thus, Applicant submits that a *prima facie* case of obviousness is lacking for claim 11 for at least this reason.

For at least these reasons, Applicant respectfully submits that claims 4, 5, and 11 are allowable over Gryder in view of Beal, and that the claims are now in condition for allowance. Withdrawal of the rejection based on 35 USC § 103(b) is requested.

CONCLUSION

In view of the foregoing, the Applicant submits that this application is in condition for allowance and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this case might be advanced by discussing the application with the Applicant's representative, in person, or over the telephone, we would welcome the opportunity to do so.

EXCEPT for fees payable under 37 CFR §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 CFR §1.16 and 1.17 which may be required, including any required extension of time fees, or credit, any overpayment to deposit account No. 50-1349. This paragraph is intended to be a constructive petition for extension of time in accordance with 37 CFR §1.136(a)(3).

Respectfully submitted,

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